

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA

v.

Case No.: 3:16-cr-00084-01

TYSHAWN DESMEON DAVIS

MEMORANDUM OPINION AND ORDER SEALING EXHIBITS

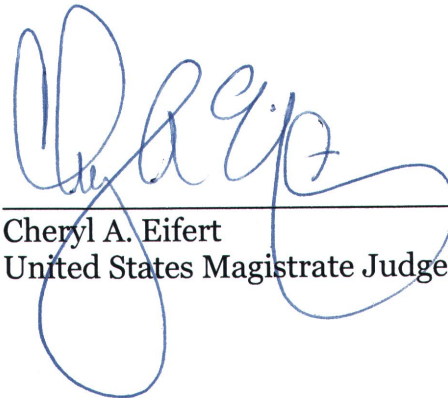
On the 21st day of June, 2016, came the United States of America, by R. Gregory McVey, Assistant United States Attorney, and the defendant, in person and by counsel, R. Lee Booten, II, CJA Panel Attorney, for a detention hearing and arraignment. During the course of the detention hearing, counsel for defendant tendered exhibits to the court and made an oral motion to seal the exhibits. Given the confidential protected health information contained in the exhibits, the court **GRANTED** the motion to seal and **ORDERED** the exhibits to be sealed.

The undersigned is cognizant of the well-established Fourth Circuit precedent recognizing a presumption in favor of public access to judicial records. *Ashcraft v. Conoco, Inc.*, 218 F.3d 288 (4th Cir. 2000). As stated in *Ashcraft*, before sealing a document, the court must follow a three step process: (1) provide public notice of the request to seal; (2) consider less drastic alternatives to sealing the document; and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting alternatives. *Id.* at 302. In this case, the exhibits shall be sealed and will

be designated as sealed on the court's docket. The court deems this sufficient notice to interested members of the public. The court has considered less drastic alternatives to sealing the documents but in view of the highly confidential and specially protected nature of the records, no such alternatives are feasible at this time. In addition, considering that the information was provided in the course of a detention hearing and for no other purpose, the defendant's right to privacy in his health care information greatly outweighs any right the public would have to know the details of the defendant's medical condition and care.

The Clerk is instructed to provide a copy of this Order to all counsel of record.

ENTERED: June 21, 2016



Cheryl A. Eifert
United States Magistrate Judge